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IMPLICATIONS OF TAXATION ON THE MANAGEMENT OF INTRA-COMMUNITY COMMERCIAL TRANSACTIONS

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ABSTRACT

The elimination of customs barriers between Romania and the Member States of the European Union has influenced the international commercial transactions, which as from 01 January 2007 cease to include the operations carried out within the Community.

Starting from the meaning of the intra-Community acquisitions and deliveries, I shall try to point out the influence of the legal changes concerning the new fiscal regulations on the commercial transactions carried out within the European Union, the method of registration in accounting and the advantages and disadvantages of customs barriers elimination.

1. Introduction

Romania's accession to the European Union required the harmonisation of national legislation with the one in the Member States and significant changes were made in the fiscal field. The elimination of customs barriers between the Member States of the European Union resulted in the elimination of customs controls of movement of goods inside the Community, influencing the international commercial transactions that as from 01 January 2007 cease to include intra-Community acquisitions and deliveries. Therefore, the export and import concepts disappeared in the relationship between the Member States, being replaced by new concepts such as intra-Community delivery (instead of export) and intra-Community acquisition (instead of import).

The intra-Community acquisition of goods is the acquisition of the right to dispose, as an owner, of goods which are dispatched or transported to the destination indicated by the buyer, by the supplier or by any other entity acting on behalf of the supplier or the buyer, to a Member State, other than that from which the goods are dispatched or transported.

The intra-Community deliveries refer to deliveries of goods that are dispatched or transported from a Member State to another by the supplier or the person for whom the delivery is made, or by another party on their behalf, including transfer by a taxable person of goods belonging to the economic activity from Romania into another Member State. Based on the significance of intra-Community acquisitions and deliveries, I shall present hereinafter the influence of the legal changes regarding the new fiscal regulations on the management of intra-Community commercial transactions, the advantages and disadvantages of customs barriers elimination and the method of registration in accounting.

2. The implications of accession to the European Union on the taxation of intra-Community commercial transactions

Taxation represents the field that underwent the most changes after Romania's accession to the European Union, the Fiscal Code being entirely harmonized with the European legislation

after 01 January 2007. Romania's accession to the European Union brought important changes regarding the value-added tax, due to both the elimination of customs barriers and the need to harmonize the national legislation with the one of the member states.

The control of movement of goods inside the Community is made by the means of the electronic system VIES and statements of intra-Community acquisitions in Romania are made after checking the supplier's valid number assigned for VAT purposes in his member state and if he declared the operation. The economic operators registered for VAT purposes shall not make the VAT payment for intra-Community acquisitions, but shall apply the *reverse charge*, i.e. payment through the VAT return.

Significant changes also occurred in the *field of service delivery* and new concepts appeared - *intra-Community transport of goods*, which has different regulations than the international transport of goods between EU Member States and third countries.

Thus the international transport of goods afferent to an import or export was and remained exempt from VAT, while the intra-Community transport of goods is not exempt from VAT, unless a customer delivers the transporter a valid VAT code from a Member State other than Romania, from where the transport leaves. In this case the customer shall pay the tax in his country and the Romanian transporter shall make the invoice without VAT.

If an economic operator from Romania contracts a transport with a transporter from another Member State, he will have to communicate his registration code for VAT purposes owing the afferent tax in Romania, however without making the actual payment, but applying the reverse charge rule.

The communication of registration code for VAT purposes is very important, leading in most cases to provider's invoicing without the value-added tax and application of reverse charge by the customer from another Member State, provided that the latter is registered for VAT purposes. Since the 01 January 2007, *the use of fiscal invoices with special regime is no longer mandatory*, because by abolishing custom borders, the goods circulate accompanied by invoices issued in every Member State, documents which have to be accepted in the state the intra-Community acquisition is made, irrespective of its form, if they comply with the minimal information settled by the Directive. The economic operators who at the end of 2006 had in stock special fiscal invoices could also use them after the accession date until consumption, being able to customize their invoices, but without being bound to do so.

European regulations required the *elimination of some VAT exemptions* that were not in line with the Community acquis, such as: elimination of VAT exemption for research-development activities, fee for commodity exchange transactions and income obtained by Transferable Securities Companies for management and deposit of shares, equity securities, debt securities, for transactions financed from non-callable funds, granted by foreign governments and international bodies and for veterinary medical care.

As from 01 January 2007 *special regimes* shall be applied for the value-added tax for: small enterprises, travel agencies, for investment gold, for second-hand goods, works of art, objects of collection and antiquities and also for domestic services delivered by persons who are not established within the Community, for non-taxable persons established in the Community.

Since the accession date, in the category of goods and services for which *simplification measures on reverse charge* apply, there were also included the buildings-assembly works which were excluded as from 2008 with the buildings, building parts and grounds of any kind for whose delivery the charge regime applies.

3. Advantages and disadvantages of intra-Community commercial transactions

The intra-Community deliveries of goods are framed within the category of exempt operations with deduction right in the following *conditions*:

- the supplier must have evidence that goods left Romania's territory;
- the buyer communicates the supplier a registration code for VAT purposes issued in the destination Member State.

Cumulative failure to meet the two conditions binds the supplier to collect VAT as in the case of an internal operation.

The Romanian supplier has the following *obligations*:

- registration in the invoice issued of the registration code for VAT purposes for both supplier and customer (codes shall be checked using VIES);
- registration in the VAT return of the value of intra-Community deliveries;
- to state the deliveries of goods in the quarterly recapitulative statement;
- to have evidence that goods left the territory of the forwarding Member State.

The intra-Community deliveries of goods have a series of advantages and disadvantages:

a) *Advantages* :

- ✓ the supplier, taxable person registered in the Member State as VAT payer is not considered as an exporter, for which reason the export customs declaration shall not be filled-in;
- ✓ the VAT is not collected, the intra-Community deliveries of goods are framed within the category of exempt operations with deduction right;
- ✓ compared to the previous treatment of the transaction, costs are lower.

b) *Disadvantages* :

- ✓ high costs regarding the value-added tax documentation mainly due to the recapitulative statement obligation;
- ✓ costs with staff training;
- ✓ costs generated by the implementation of the new software or change of the existing one.

With reference to the *intra-Community acquisition of goods* we can mention as a general rule that the value-added tax is paid in the destination state and the place of the intra-Community acquisition is considered to be the place where the goods are when the dispatch or transport of goods is concluded. The customer, taxable person registered as a value-added tax payer in Romania, emphasizes the VAT by applying the reverse charge mechanism, in which the tax is not actually paid and the import customs declaration no longer exists.

The beneficiary of the intra-Community acquisition has the following *obligations*:

- to enter the value of intra-Community acquisitions in the VAT return;
- to state the acquisitions of goods in the quarterly recapitulative statement;
- to issue the self-billing invoice if he/she did not receive the invoice from the supplier.

The intra-Community acquisitions have a series of advantages and disadvantages, i.e.:

a) *Advantages* :

- ◆ economies regarding the cash flows on the value-added tax by its non-payment;
- ◆ costs are reduced compared to the treatment of transactions before accession;
- ◆ easier procedures.

b) *Disadvantages* :

- ◆ costs are increased because of reports made by the recapitulative statement;
- ◆ staff training requires additional costs;

- ◆ increased costs with the implementation of the new software or improvement of the existing one.

The method of registration in accounting has simplified after Romania's accession to the European Union and the implications of taxation on the management of intra-Community commercial transactions can be synthesized as follows:

- reflection of the intra-Community acquisition of goods:

3xx "Inventories"	*	401 "Suppliers"
	=	
	*	

- concomitantly, the afferent value-added tax is pointed out:

4426 "Input value-added tax"	*	4427 "Output value-added tax"
	=	
	*	

- reflection of an intra-Community delivery of goods (commodity):

4111 "Customers"	*	707 "Income from sales of goods"
	=	
	*	

4. Conclusions

Romania's accession to the European Union required the harmonisation of national legislation with the Community legislation and significant changes were made in the fiscal field.

At first sight the new procedures have a positive impact on the development of intra-Community commercial businesses due to the simplification of transactions with goods, by eliminating customs formalities and implicitly the fees paid to customs agents, by fluidizing logistic flows and also due to the elimination of costs related to cash flows, since the value-added tax is no longer to be paid at customs.

Nevertheless there are costs generated by the new legislation that refer to expenses made with the change of the accounting and informative system, changes necessary in order to fill in the declarations required by the new legislative stipulations on indirect taxes, expenses for proper and accurate records of all the operations made in the development of the activity, but also costs generated by rapid adaptation to the new regulations, concretized in the increase of expenses with services of accounting and fiscal records or for staff training.

As a main advantage should be kept in mind the general modernization of the Romanian fiscal system and its connection to the European fiscal system and as a disadvantage one may speak of the costs generated by the period of transition.

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